

**State of California  
Office of Administrative Law**

**In re:**  
**Secretary of State**

**Regulatory Action:**

**Title 02, California Code of Regulations**

**Amend section: 20136**

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2021-1116-02**

**OAL Matter Type: Certificate of Compliance  
(C)**

This certificate of compliance action makes permanent, with amendments, emergency regulations that extend the time in which ballots must be retrieved from unstaffed vote-by-mail drop boxes from 24 hours to 48 hours.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

**Date: December 30, 2021**



**Nicole C. Carrillo  
Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Dr. Shirley Weber, Secretary of  
State**

**Copy: Robbie Anderson**

## NOTICE PUBLICATION/REGULATION SUBMISSION

STD. 400 (REV. 10/2019)

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2021-0302-03</b>	REGULATORY ACTION NUMBER <b>2021-1116-02C</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Secretary of State			

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

DEC 30 2021

1:26 PM

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <b>2021, 11-Z</b>	PUBLICATION DATE <b>3/12/2021</b>

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) <b>Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations</b>	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <b>Z2021-0302-03, 2020-0616-01E, 2021-0812-01EE</b>
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## 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND <b>20136</b>
	REPEAL
TITLE(S) <b>2</b>	

## 3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

## 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

<b>05/12/2021 to 05/27/2021, 08/13/2021 to 08/30/2021, 10/26/2021 to 11/10/2021</b>			
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## 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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## 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

## 7. CONTACT PERSON

Robbie Anderson	TELEPHONE NUMBER <b>916-216-6488</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>aanderso@sos.ca.gov</b>
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Susan Lapsley</i>	DATE <b>11/16/2021</b>
TYPED NAME AND TITLE OF SIGNATORY <b>Susan Lapsley, Deputy Secretary of State</b>	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 30 2021

Office of Administrative Law

**California Secretary of State Proposed Regulatory Action:  
Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations  
Final Proposed Regulation Text  
(Changes to Emergency Regulations)**

Title 2. Administration  
Division 7. Secretary of State  
Chapter 3. Voting Locations  
Article 1. Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations

**20136. Drop-off Location and Drop Box Hours. Public Notification. Collection Times.**

(a) The county elections official shall publicly announce the locations of drop-off locations and drop boxes at least 30 days prior to the election. The announcement must include the days and estimated times a particular staffed drop box will be available. The announcement must also include information on accessibility, including wheelchair access, for each drop-off location and drop box. Information shall be included in the county's Voter Information Guide and Sample Ballot publications, included in vote-by-mail materials sent to voters, and conspicuously posted on the county elections official's website. In the event any changes are made to locations and/or schedules, the information posted on the elections official's website shall be updated within 24 hours.

(b) For the purpose of posting the locations on the Secretary of State's website and to include information in any relevant election materials, the county elections official shall notify the Secretary of State of the drop-off and drop box locations, and the dates and estimated hours of availability, at least 30 days prior to the election. In the event any changes are made to locations and/or schedules, the Secretary of State must be notified within 24 hours.

(c) Drop boxes shall be locked and covered, or otherwise made unavailable to the public until the day the elections official begins mailing vote-by-mail ballots, to ensure that no ballots or any other materials may be deposited before the vote-by-mail period begins. The elections official shall determine the appropriate method or design to make the drop boxes unavailable for use. Prior to use before the election, all drop boxes shall be inspected for damage and to ensure they are empty.

(1) A county elections official who provides a drop box outside of their office throughout the year for the purpose of voters delivering completed voter registration affidavits shall not be required to lock and cover those drop boxes.

(2) In the event drop boxes are deployed on the 60<sup>th</sup> day prior to an election for use by military and overseas voters, the provisions of this Article must be followed.

(3) The elections official may make drop boxes available prior to the date the elections official begins mailing vote-by-mail ballots. If the elections official does so, the elections official shall notify the Secretary of State of that action at the time the drop boxes are made available.

(d) Ballots shall be retrieved from drop boxes at times determined by the elections official, but shall be subject to the following:

(1) Ballots shall be retrieved from both staffed and unstaffed drop boxes at least every 96

hours, excluding Saturdays and Sundays, between the 29<sup>th</sup> day before the election and the 10th day before an election.

(2) Ballots shall be retrieved from staffed drop boxes at least every 72 hours, excluding Saturdays and Sundays, after the 10th day before the election through the closing of the polls on Election Day. The elections official shall develop procedures for contacting locations of staffed drop boxes between ballot retrieval periods to determine if an additional retrieval is needed.

(3) Ballots shall be retrieved from unstaffed drop boxes every 48 hours, excluding Saturdays and Sundays, after the 10th day prior to an election through the closing of the polls on Election Day.

(e) Upon the closing of the polls on Election Day, all drop boxes shall be locked and covered or otherwise made unavailable at 8:00 p.m. to ensure that no ballots are dropped off after the polls have closed. In the event there are voters in line at 8:00 p.m., or a court order has been issued extending the time for the closing of the polls, the drop boxes may remain open until those voters have cast their ballot or the court order extending time has lapsed.

(f) The elections official is encouraged to retrieve as many ballots as is practicable before 11:59 p.m. on Election Day and shall retrieve all ballots from all staffed and unstaffed drop boxes by 8:00 p.m. on the day after the election.

(1) In the event a county elections official is aware that they are or will be unable to retrieve all ballots from all staffed and unstaffed drop boxes prior to 8:00 p.m. on the day after the election, the elections official shall provide a written notification to the Secretary of State.

(a) The written notification shall detail the following: the location of the drop box(es) from which all ballots may not be retrieved prior to 8:00 p.m. on the day after the election, the last time ballots were retrieved from that/those drop box(es), and specific details on why all ballots may not be timely retrieved from that/those drop box(es).

(b) The written notification shall be transmitted to the Secretary of State immediately upon the determination that all ballots may or will not be retrieved prior to 8:00 p.m. on the day after the election.

(2) Immediately upon retrieving ballots from all staffed and unstaffed drop boxes, the county elections officials shall certify to the Secretary of State that all ballots have been retrieved from all staffed and unstaffed drop boxes.

*Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 3025, Elections Code. Reference: Section ~~3005.5~~ 3025, Elections Code.*